

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Theresa English,

Plaintiff

v.

The Guardian Life Insurance Company of
America,

Defendant

Case No. 2:23-cv-00231-CDS-EJY

**Notice of Intent to
Dismiss Under Local Rule 41-1**

This Employee Retirement Income Security Act (E.R.I.S.A.) lawsuit was initiated by plaintiff Theresa English in February 2023. Compl., ECF No. 1. Five months after defendant, The Guardian Life Insurance Company of America, filed its answer to the complaint (ECF No. 12), the parties submitted a stipulation regarding settlement and proposed scheduling order (ECF No. 26). Therein, the parties agreed that the case was settled in principle subject to execution of a settlement agreement and negotiation of fees and costs to be paid to English's attorney. *Id.* at 2. On September 28, 2023, Magistrate Judge Elayna Youchah approved the briefing schedule related to English's potential motion for attorney's fees and costs. ECF No. 27. In that order, English was directed to submit an initial brief with supporting evidence no later than October 21, 2023 if the parties were unable to reach an agreement regarding attorney's fees and costs. *Id.* at 3–4. To date, no motion for attorney's fees and costs—or any paper—has been filed since Judge Youchah's September 2023 order, over 270 days ago.

Because the parties expressed that they have settled this matter, and absent an initial brief, it appears the parties were able to fully resolve the issue of attorney's fees without court action. Thus, it is ordered that a stipulation of dismissal or a joint status report addressing the status of settlement must be filed by July 15, 2024.

1 Alternatively, this order serves as notice that the complaint will be dismissed without
2 prejudice and without further notice on July 15, 2024, under Local Rule 41-1¹. Failure to respond
3 by that date will be deemed consent to the dismissal.

4 Dated: July 1, 2024

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6 Cristina D. Silva
7 United States District Judge
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26 ¹ “All civil actions that have been pending in this Court for more than 270 days without any proceeding of
record having been taken may, after notice, be dismissed for want of prosecution by the court sua sponte
or on the motion of an attorney or pro se party.” LR 41-1. Further, it is within the inherent power and
discretion of the court to sua sponte dismiss a civil case for lack of prosecution. Fed. R. Civ. P. 41(b).